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13 October 1999

Ex parte letter

Re: Response to U S WEST line sharing proposal
In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98-147

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OFFICE OF THE SECRETARY

Ms. Carol Mattey, Chief
Common Carrier Bureau
Policy and Program Planning Division
445 12th Street, S.W.
Washington, D.C. 20554

Dear Ms. Mattey:

Covad Communications is pleased to have the opportunity to respond to U S WEST's October 7, 1999, *ex parte* presentation in which it proposed what it termed a "workable solution" to the line sharing pricing issue. U S WEST defends its imputation of zero loop cost to its own retail xDSL offerings as a "technological efficiency" that justifies its discriminatory treatment of competitors seeking that same funcationality.[1] A century-old monopoly of local loop plant that Congress has required the FCC to break is not a "technical efficiency." U S WEST's arguments must be viewed for what they really are: a continuation of a three year incumbent LEC tradition of fighting each and every pro-competitive, market opening proceeding undertaken by the Commission. In this letter, we highlight the discriminatory and competition-blocking characteristics of U S WEST's proposal. We also offer a recent order of the Minnesota Commission in support of Covad's argument concerning the nondiscrimination justification for its pricing proposal.

First, U S WEST appears to concede that line sharing is necessary, but warns that competitive LECs are using line sharing as a trick to avoid high loop costs. Although U S WEST is correct to highlight the inordinately high loop rates it charges competitors, Covad and other competitive LECs are seeking nothing more than parity with the incumbent. Covad has argued consistently that the statutory requirement that incumbent LECs provide "nondiscriminatory access" to unbundled network elements (section 251(c)(3) of the Act) obligates incumbents to provide requesting carriers with access to line sharing capability – the very same line sharing that U S WEST's local

[1] *See* U S WEST October 7, 1999, *ex parte* at 3.

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telecommunications operation provides to its own "Megabit" retail xDSL service. It is not surprising that U S WEST wants to provide line sharing only to itself: U S WEST is currently arguing before the FCC and the courts that advanced telecommunications companies like Covad are not entitled to *any* UNEs, to collocation space, or any of the other market-opening provisions of the 1996 Act, because xDSL services are not local telephone services.[2] To hear U S WEST tell it, Congress intended to open only the local circuit-switched voice market to competition, despite the clear mandate in section 251(c)(3) that incumbents provide UNEs to competitors seeking to provide any "telecommunications service." Given U S WESTs unequivocal opposition to local competition, their posture in this proceeding in opposition to line sharing is not surprising.

Pricing

Perhaps sensing that the Commission will not respond favorably to its attempts to block line sharing outright, U S WEST is now attempting to erect as many administrative barriers to rapid implementation of line sharing as possible. If it succeeds in miring line sharing in months or even years of arbitration, U S WEST has won. But despite U S WEST's contention, pricing issues can be handled on an interim basis based on the pricing mechanisms that U S WEST itself has already put in place. In its October 8, 1999, order adopting line sharing requirements for U S WEST, the Minnesota Commission ordered U S WEST to set its line sharing pricing "guided by the principle that USWC [U S WEST Corporation] should provide line sharing to the CLECs on the same terms and conditions (including pricing, processes, and services) that it provides to itself." (Minnesota Commission order at 2 (*see attached*).) The Minnesota Commission concluded that "by forcing CLECs to purchase individual unbundled loops, while ILECs impute $0 to the loop for their own DSL services, the ILEC is discriminating against CLECs. CLECs should have access to the data spectrum at the same rate ILECs charge themselves, be that $0 or otherwise." (*Id.* at 1.) As Covad has consistently argued before the FCC, and as the Minnesota Commission has ordered, this is exactly the nondiscriminatory requirement imposed on incumbent LECs by the 1996 Act. In fact, the Minnesota Commission ordered U S WEST to utilize this pricing mechanism in advance of its final line sharing order, because it saw "no reason why it should delay advancing competition in Minnesota . . . ." (*Id.* at 3.)

In its September 30, 1999, *ex parte* letter, Covad proposed a simple and workable interim line sharing mechanism that would ensure that incumbent LECs do not delay providing line sharing to competitors while they continue to provide it to themselves. In

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[2] *See, e.g.* Comments of U S WEST, Inc., CC Docket Nos. 98-11, 98026, 98-32, 98-78, 98-91, 98-147, at 3 ("the Commission should recognize that the requirements of sections 251(b) and (c) do not apply to a telephone company's provision of advanced services, even if that company also acts as a local exchange carrier in other contexts") (filed Sept. 24, 1999). As further evidence of its distorted view of competition, U S WEST suggests that "the inapplicability of sections 251(b) and (c) to the provision of advanced services is consistent with the procompetitive purposes of the Act." *Id.* at 4. It is impossible to imagine that the same Congress that enacted section 706 as an express mandate to encourage deployment of advanced services would have exempted advanced services from the core market opening provisions of the Act.

broadband "Internet time," the ability of incumbent LECs to lock up the nascent market by barring competitors, even for a few months, from accessing the UNEs to which they are entitled by law, will mean the difference between monopoly and competition in broadband services. The true consumer benefit of xDSL is that consumers can talk on the phone and surf the Internet at the same time over a single loop --- but today, incumbent LECs ensure that only they, not data CLECs, provide that service. Even if the Commission orders line sharing as a UNE, such action will be meaningless without immediate implementation pursuant to concrete and enforceable terms and conditions.

U S WEST contends that Covad's proposal, that U S WEST offer line sharing as a UNE to Covad and other competitive LECs pursuant to the same terms and conditions that it offers line sharing to itself, "does not work" because "no facts or analysis support it." The support Covad has consistently offered is the 1996 Act, which requires incumbent LECs to provide nondiscriminatory access to UNEs. U S WEST argues that it should be permitted to charge itself nothing for an xDSL loop while it charges competitive LECs 50% of the loop cost – and that this is merely a "technical efficiency." With U S WEST loop rates of 38 dollars in Idaho, for example, 50% of the loop cost – 19 dollars – is exactly 95 cents less than the *retail price* U S WEST charges for its baseline xDSL consumer service. Faced with tens of thousands of dollars in collocations costs, as well as its own marketing and operating costs, no data CLEC can even begin to compete. U S WEST's "technical efficiency" argument is yet another in a long series of efforts to leverage its local loop monopoly into the broadband market. This is clear discrimination and the 1996 Act does not permit it.

By its proposal, U S WEST is seeking to recover 150% of its costs for each loop – 100% from its voice customer and a bonus 50% from the data CLEC. As the Minnesota Commission concluded in its line sharing order, "[i]f USWC were permitted to impose rates for loop sharing that are above incremental cost, their compensation for a loop would constitute double recovery. If data CLECs were forced to pay an additional cost for the data portion of the same loop, USWC would receive a windfall and the consumers would overpay for their services." (*Id.* at 5.) Covad's proposal in its September 30, 1999, *ex parte* is a reasonable, and indeed generous, price formula. It would permit U S WEST and other incumbent LECs a 10% *additional* profit, above and beyond its zero costs, for every line sharing UNE it sells.

To the extent additional pricing issues must be resolved in the near future, the Commission has recently put the mechanisms in place to handle those issues. Last week, the Commission announced the formation of a Federal-State Joint Conference on Advanced Telecommunications Services.[3] This Joint Conference will handle issues related to the deployment of advanced services that require the close cooperation of federal and state regulators. As U S WEST points out in its *ex parte*, line sharing pricing issues should be resolved in the long term so as to take account of complex issues of local exchange service pricing and access charges. The Joint Conference is the perfect venue for resolution of these issues. As the Minnesota Commission concluded, however, "the

[3] *See* Federal-State Joint Conference on Advanced Telecommunications Services, FCC 99-293, CC Docket No. 99-294 (rel. Oct. 8, 1999).

pricing issue is not a substantial impediment to ordering line sharing."[4] The FCC should not be distracted by U S WEST's attempt to derail line sharing because issues need to be resolved in the future. U S WEST has pulled out every argument it can think of – from destruction of the network to the creation of a hybrid Internet telephony goldmine for CLECs[5] – to block line sharing and preserve its monopoly. As Covad has repeatedly argued, line sharing is crucial for competition in the broadband marketplace, and the Commission must act rapidly to ensure that U S WEST and other incumbents do not succeed in blocking competitors from entering their markets.

Please do not hesitate to contact me if I can be of any further assistance in this matter. I have attached a copy of the Minnesota line sharing order for your reference.

Sincerely,

Jason Oxman
Senior Government Affairs Counsel
Covad Communications

cc:
Lawrence Strickling, CCB
Robert Atkinson, CCB
Staci Pies, CCB
Jake Jennings, CCB
Margaret Egler, CCB
Vincent Paladini, CCB
Christopher Libertelli, CCB
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Sarah Whitesell, Office of Commissioner Tristani
Kyle Dixon, Office of Commissioner Powell
Linda Kinney, Office of Commissioner Ness
Rebecca Beynon, Office of Commissioner Furchtgott-Roth

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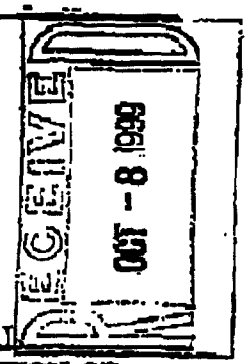
[4] *See* Minnesota Order at 5.

[5] Having failed to convince the FCC that line sharing will bring down the public switched network (an argument recycled, no doubt, from the *Hush-a-phone* days when the incumbent telephone company argued before the FCC that a plastic cup attached to a telephone handset with a rubber band threatened the future of the network), U S WEST attempts in its *ex parte* to argue that line sharing is a means for data LECs to avoid investing in "a more robust network" until they can deploy IP telephony within "9 to 18 months" and avoid the expense of circuit-switched voice service. U S WEST October 7, 1999, *ex parte* at 5. Covad has no plans to deploy IP telephony and is not advocating line sharing in order to "force ILECs to inflate their prices for data retail services." *Id.* Line sharing is not a deceptive means of sneaking IP telephony capability into the network. All Covad seeks is parity with the incumbent.

BEFORE THE MINNESOTA PUI

Edward A. Garvey
Joel Jacobs
Marshall Johnson
LeRoy Koppendrayer
Gregory Scott

Commissioner
Commissioner
Commissioner



In the Matter of a Commission Initiated Investigation into the Practices of Incumbent Local Exchange Companies Regarding Shared Line Access

ISSUE DATE: October 8, 1999

DOCKET NO. P-999/CI-99-678

ORDER REQUIRING TECHNICAL TRIALS, GOOD FAITH RESOLUTION OF OPERATIONAL ISSUES, AND A RESULTING REPORT

PROCEDURAL HISTORY

On May 27, 1999, the Commission issued an Order opening the current docket to investigate the practices of Minnesota incumbent local exchange companies (ILECs) with respect to line sharing, for the purpose of determining what action, if any, the Commission can and should take with respect to those policies and practices. In its Order, the Commission directed the Minnesota ILECs, any competing LEC that desires to line share with an incumbent LEC in Minnesota, and the Department of Public Service to file information and comment in response to certain specific questions. The Commission encouraged other interested parties to file relevant information and comments within the same time frame. Finally, the Order established a period for reply comments.

On June 28, 1999, the following parties filed comments: ACI Corporation (ACI); AT&T Communications of the Midwest (AT&T); Covad Communications (Covad); Crystal Communications (Crystal); the Minnesota Department of Public Service (the Department); Frontier Communications (Frontier); GTE Minnesota (GTE); MCI WorldCom (MCIW); Minnesota Independent Coalition (MIC); Minnesota Telephone Association (MTA); Office of the Attorney General-RUD (RUD-OAG); Envoy; Sprint; TDS TELECOM (TDS); and U S WEST Communications (USWC).

On July 12, 1999, Richard Baker filed reply comments.

On July 30, 1999, the following parties filed reply comments: ACI Corporation (ACI); AT&T Communications of the Midwest (AT&T); Covad Communications (Covad); the Minnesota Department of Public Service (the Department); Mankato Citizens & Mid-Communications (MC&MC); MCI WorldCom (MCIW); Media One; Minnesota Independent Coalition (MIC); Minnesota Telephone Association (MTA); NorthPoint Communications (NorthPoint); Sprint; TDS TELECOM (TDS); and U S WEST Communications (USWC).

On August 2, 1999, Covad Communications (Covad) filed reply comments.

The Commission met on September 22, 1999 to consider this matter.

FINDINGS AND CONCLUSIONS

I. SUMMARY OF ACTION

Based on all the filings herein and having heard the arguments of counsel at the hearing on this matter, the Commission will direct USWC and any interested data CLECs to conduct a technical trial of the CLECs' equipment to determine whether the CLECs' equipment interferes with USWC's voice grade network. If the technical trials (including an actual hook-up of the various CLEC equipment with USWC's system) shows that the CLEC equipment is compatible with (does not interfere with) USWC's voice grade network, the Commission will issue another Order directing USWC to provide such line sharing as is consistent with the non-degradation of USWC's voice grade system. To the extent that it is shown to be infeasible to offer data services on a loop without impairing voice quality, that loop should not be made available for line sharing to either an ILEC or a CLEC.

In addition, in order to be prepared to assure equitable terms for any such sharing as the Commission may require following the technical trials, the Commission will order USWC and any interested CLECs to work together to develop proposed terms and conditions under which USWC would provide line sharing to data CLECs, guided by the principle that USWC should provide line sharing to the CLECs on the same terms and conditions (including pricing, processes, and services) that it provides to itself. These "terms and conditions" discussions will also specifically address the following operational issues: (i) responsibility for central office equipment, (ii) loop testing and repair arrangements, and (iii) notification of customers and the LEC sharing the line as necessary to enhance service efficiency and effectiveness.

The companies will be asked to report the results of their technical trials and their "terms and conditions" discussions within 45 days of this Order. The Commission's Executive Director will have authority to schedule the matter as soon as practicable.

II. RATIONALE

A. Summary

The Commission has concluded that the denial of line sharing at an equitable price is discriminatory and presents a barrier to competition. Although data CLECs have the ability to buy unbundled loops, without line sharing they may not have access to any loops if all loops are occupied by other services. Moreover, by forcing CLECs to purchase individual unbundled loops, while ILECs impute $0 to the loop for their own DSL services, the ILEC is discriminating against CLECs. CLECs should have access to the data spectrum at the same rate ILECs charge themselves, be that $0 or otherwise.

The Commission is inclined to move with respect to USWC at this time rather than waiting to proceed with respect to all ILECs because the record is adequate for this limited action and the Commission sees no reason why it should delay advancing competition in Minnesota in this significant, if incremental, manner.

B. Issues Resolved or Presenting No Impediment

The Commission finds that several issues initially raised against mandatory line-sharing either have been resolved to the Commission's satisfaction in favor of proceeding to require line-sharing or present no substantial impediment to such an Order, as follows:

1. Commission Authority

The FCC has concluded that nothing in the Act, its rules, or case law precludes states from mandating line sharing. Indeed, Section 706(a) of the Telecommunications Act of 1996 provides that state commissions shall encourage the deployment of advanced telecommunications capability to all Americans by utilizing measures that promote local competition.

The Commission finds that it has ample authority to mandate line sharing under state law.[1] Minn. Stat. § 237.081 grants the Commission power to broadly investigate any matter related to telecommunications service. Under Minn. Stat. § 237.082 the Commission has express authority to issue orders affecting the deployment of infrastructure in order to advance the goals of achieving efficient investment in higher speed telecommunication services.

The Commission also has authority to require line sharing in Minn. Stat. § 237.011 which sets out several policy goals: (i) maintaining just and reasonable rates, (ii) encouraging the deployment of infrastructure for higher speed services, and (iii) encouraging competition.

2. Unbundled Network Elements (UNEs)

Section 251(c)(3) of the Act requires ILECs to provide "nondiscriminatory access to network elements on an unbundled basis." As such, a portion of the debate between the parties revolves around the issue of whether a frequency portion of the loop can be considered an unbundled network element. Data CLEC Covad and TDS, representing four relatively small ILECs, argued that the shared line is a network element, while the incumbents, USWC and GTE, disagreed.

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[1] The Commission also may well have authority under federal law, the Telecommunications Act of 1996 (the Act). See issues below related to "unbundled network elements" (UNEs) and the "necessity and impairment" standards under the Act. In this Order, however, the Commission declines to rule on these possible sources of authority under Federal Law, having found adequate state authority for its actions herein and deferring to the FCC's impending clarification of the referenced sections of the Act.

The Commission finds that it need not resolve this issue at this time in order to require line sharing because there are adequate state grounds (cited above) for the Commission's authority to do so.

3. Necessity and Impair Standard

If the voice and data frequencies on the loop can be considered as separate network elements, there remains the question as to whether such elements should be made available to competitors. Section 251(d)(2) of the Act addresses access standards:

> In determining what network elements should be made available for purposes of subsection (c)(3), the Commission shall consider, at a minimum, whether –
>
> A. access to such network elements as are proprietary in nature is necessary; and
>
> B. the failure to provide access to such network elements would impair the ability of the telecommunications carrier seeking access to provide the services that it seeks to offer. [emphasis added]

A number of the parties addressed the question whether the provision of a data frequency UNE is necessary and whether the failure to provide it would impair competition.

The Commission finds that it need not resolve this issue at this time in order to require line sharing because there are adequate state grounds (cited above) for the Commission's authority to do so.

4. Pricing Issues

USWC argued that cost allocation and pricing issues provide additional reasons to reject line sharing. Because CLEC line sharing proposals would force an ILEC to sell to a CLEC a whole loop, and to buy back whatever channel the CLEC does not use, USWC asserted that the appropriate question is what rebate off the loop price (if any) the CLEC should get for returning that channel. According to USWC, the answer is none. Where a CLEC creates voice and data channels by installing xDSL equipment,[2] its retention of control over the loop - and over power usage, in particular - renders the unused spectrum worthless to an incumbent LEC as a potential voice channel. USWC stated that an incumbent LEC simply could not afford to bear the risk of

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[2] DSL stands for Digital Subscriber Line. The x in xDSL indicates (stands for) "the entire family of" DSL technologies. The term "xDSL-based service provider", therefore, includes any competing LEC that uses one (or more) of the various kinds of Digital Subscriber Line (DSL) technologies to provide service.

substantial voice degradation presented by the use of CLEC-created voice channels, and clearly would not choose to pay anything to do so. Even if it made sense to say that line sharing entails a CLEC's purchase of a functionality within the incumbent's network element, TELRIC pricing[3] is simply incompatible with such a requirement.

USWC contended that it is plainly untenable to conclude that the incremental cost of both a voice channel and a data channel within a loop is zero. It would thus be arbitrary to decide, as most CLECs propose, that all costs should be assigned to the voice service rather than the data service. Such an allocation also would distort competition:

> The simple fact of the matter is that if an incumbent local telephone company is to be required to bear the entire cost of providing a loop, capable of providing a wide variety of services - with the necessity of recovering the common costs from those several services rather than in a lump sum charge for dial tone alone - and is then required to offer the access that the loop provides to competitors for the provision of only some of these services, at - let us assume - zero incremental cost, it may well find itself under pressure of competition, incapable of recovering any of the common costs from the latter services. [Kahn, USWC Reply Comments]

USWC rejected the notion that some incumbent LECs presently impute no loop costs in pricing their own data services. According to USWC, competitive parity demands that incumbents and CLECs alike bear the costs of a whole loop.

The Commission is not presently concerned with how USWC resolves the pricing issue, so long as the Company charges data CLECs the same rate loop that the Company presently imputes to its own DSL services. To insure nondiscriminatory treatment of data competitors, CLECs must be charged the same costs USWC imputes to itself for the data portion of the loop. Not only is this a statutory necessity, but it is also sound policy. If USWC were permitted to impose rates for loop sharing that are above incremental cost, their compensation for a loop would constitute double recovery. If data CLECs were forced to pay an additional cost for the data portion of the same loop, USWC would receive a windfall and the consumers would overpay for their services. If, however, USWC imputes some non-zero cost to the data portion of the loop, then the CLECs can also be charged that amount for the data portion.

Consistent with the requirement stated earlier that line sharing (if it is required in a future Order) must be provided on the same terms and conditions that USWC applies to itself, USWC and interested ILECS will address and resolve the pricing issue in the "terms and conditions" discussions required by this Order. Viewed in this light, the pricing issue is not a substantial impediment to ordering line sharing.

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[3] TELRIC stands for Total Element Long Run Incremental Cost.

C. Issues Remaining to Be Resolved Prior to an Order to Line Share

1. Technical Difficulties

The primary question about mandatory line-sharing not resolved to the Commission's satisfaction at this point is the technical issue: will the xDSL equipment of the data CLECs in this matter degrade USWC's analog voice service when they share the same copper wire? USWC warns of potential degradation while Covad, ACI, and NorthPoint hold that such degradation can be avoided. The technical trial of the parties' equipment will resolve that issue.

2. Operational Problems

In addition, while the operational issues raised by USWC, GTE, MIC, and the RUD-OAG do not appear insurmountable, it does appear that the parties will need to spend some time together attending upon these concerns. Accordingly, the Commission will direct the parties to work with each other in good faith to resolve these issues on a carrier-to-carrier basis and report their resolutions as part of the "terms and conditions" proposals that the parties are being required to develop during the 45 day period following this Order, as noted in Ordering Paragraph 1 below.

ORDER

1. US WEST Communications, Inc. (USWC) and data CLECs interested in obtaining line sharing services from USWC shall work together collectively and on a carrier-to-carrier basis to develop the terms and conditions under which USWC would provide line sharing to data CLECs in the event the Commission were to Order it (USWC) to do so. The parties shall work with each other on this project in good faith and shall be guided by the understanding that the Commission believes that USWC should provide line sharing to the CLECs on the same terms and conditions (including pricing, processes, and services) that it provides to itself. Among the operational issues for which the parties will develop terms and conditions are: (i) responsibility for central office equipment, (ii) loop testing and repair arrangements, (iii) notification of customers and the LEC sharing the line as necessary to enhance service efficiency and effectiveness.

2. USWC and any data CLECs interested in obtaining line sharing services from USWC shall participate together in good faith in a technical trial (or trials, as may be reasonably required) for the purpose of confirming which (if any) of the interested data CLECs' equipment does not interfere with USWC's voice grade network. Such trial(s) shall include an actual hook up to USWC's telecommunications facilities.

3. USWC and the affected CLECs shall conclude their technical trials per Ordering Paragraph 2 and their development of terms and conditions per Ordering Paragraph 1 and submit a written report to the Commission within 45 days of this Order.

4. The Executive Secretary shall have authority to schedule the matter as soon as practicable thereafter.

5. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Mark E. Oberlander for

Burl W. Haar
Executive Secretary

(S E A L)

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Concurring Opinion by Chair Edward Garvey

I support the Commission's line sharing decision. Although there are number of technical and engineering issues that need to be addressed, there is no question that line sharing is technically feasible. The dispute is whether those technical and engineering issues are as big, complicated and lengthy to resolve as US West believes, or small, simple, and quick to fix, as the data CLECs argue. Hopefully, the technical conference ordered by the Commission will resolve this dispute. Unfortunately, there are a number of other issues that the technical conference is unlikely to resolve but which need to be addressed by the Commission before line sharing can occur throughout the State of Minnesota. To that end, and after reflecting upon the all the line sharing materials I read and heard at the hearing, I conclude that the Commission should do three additional things to promote line sharing.

First, the Commission should make a more forceful statement in support of line-sharing. While I am comfortable with the statement the Commission settled on, a stronger statement needs to be made. When the issue comes back before the Commission we should include a policy statement indicating that it is in the public's interest to promote consumer choices of providers, price offerings and types of high speed advanced telecommunication services. Line sharing is a technically feasible way of deploying such services. ILEC opposition to line sharing is contrary to the public interest because it hinders the deployment of high speed, advanced telecommunication services by competitive carriers. That being the case, an ILEC shall not use their control of the loop in a discriminatory way or to the detriment of other actual and potential providers of high speed, advanced telecommunication services.

While the Commission's order limits its attention to just USWC, the Commission ought to make clear that the policy of line sharing should not be limited to just one, albeit the largest, incumbent telephone company. This brings up the second thing the Commission should do when this issue comes back up before it: the Commission should open up a rule making docket. There are two reasons why a rulemaking is needed. First, the Commission needs to make sure the Commission's line sharing policy can be applied to all ILECs, not just USWC. Second, and perhaps more importantly, there are important pricing and cost implications to line sharing that need to be sorted out. It may be competitively neutral to require USWC and other ILECs to "provide line sharing to the CLECs on the same terms and conditions (including pricing, processes, and services) that it provides to itself" but being competitively neutral may not be the only public policy issue that needs to be considered. There are universal service and funding issues that should be considered too. Thus, it may or may not be in the public interest to allow telecommunication service providers to decide among themselves what the incremental value of the high speed spectrum is. Similarly, it may or may not be in the public interest for the voice spectrum to subsidize the arguably more commercially valuable high speed, digital services. A rule making process would sort out these issues and allow the Commission to balance the competing interests and policies.

While the Commission pursues the rulemaking process, the Commission should handle CLEC line sharing complaints on a case-by-case basis as they arise directly from interconnection agreements. Line sharing is laced with business considerations for both ILECs and CLECs. Such business decisions start with the types of relationships and arrangements CLECs and ILECs make with each other as well as the type of technologies and equipment they use, kind of services provided, to whom they offer those services, and pricing arrangements for those services. As a result the line sharing disputes will be unique to each set of ILEC and CLEC involved. Therefore, and for the time being, the Commission should address line sharing disputes on a case-by-case basis as they arise out interconnection agreements. In doing so, the Commission ought to make clear that after an investigation of a formal complaint, if the Commission finds that an ILEC is not fulfilling its obligation under an interconnection agreement and hindering the deployment of high speed advanced telecommunication services, the Commission will deem such ILEC actions violations of Commission Order and Minnesota law and trigger to the extent applicable statutory anti-competitive penalties.